

Remarks

Claims 1-19 were pending in the subject application. By this Amendment, the applicants have amended claims 1, 5 and 14. No new matter has been introduced. Support can be found throughout the original specification and claims (see, e.g., page 3, lines 17-20, and original claims 2, 3, 10, and 12). Accordingly, claims 1-19 are before the Examiner for further consideration.

The amendments to the claims have been made in an effort to lend greater clarity to the claimed subject matter and to expedite prosecution. These amendments should not be taken to indicate the applicants' agreement with, or acquiescence to, the rejections of record. Favorable consideration of the claims now presented, in view of the remarks and amendments set forth herein, is earnestly solicited.

Initially, the applicants would like to thank Examiner Callaway and Supervisory Examiner Lavarias for extending the courtesy of an interview on December 8 with the undersigned and Mr. Robert Perry. As discussed during the interview, it appeared that the Examiner was giving the term "non-planar mirror" a broader interpretation than the applicants intended. Thus, the applicants have amended independent claims 1, 5, and 14 to further clarify the characteristics of the non-planar mirror of the subject invention. The amendments and remarks presented herein are consistent with the substance of the interview and constitute a summary thereof.

Claims 1, 2, 4-6, 14, and 15 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Lowe *et al.* (U.S. Patent No. 5,989,923) and Stephens *et al.* (GB Patent No. 2054995 A). The applicants respectfully traverse this ground for rejection because the cited references, taken either alone or in combination, do not teach or suggest the claimed invention.

By this Amendment, independent claims 1, 5 and 14 have been amended to recite that the non-planar mirror (which the hologram is formed as) "is concave, convex, capable of effecting retroreflection, recoded using one or more reflective beads, or a prism." These features of the subject invention are discussed at, for example, page 3, lines 17-20 of the specification as originally filed and in original claims 2, 3, 10, and 12. The combination of cited references fails to teach or suggest a hologram formed as such a non-planar mirror.

The Action states at page 5 that Lowe *et al.* disclose a hologram formed as a non-planar mirror, referring to column 4, lines 32-39 and column 10, lines 4-39 of the Lowe *et al.* reference. However, as discussed in the interview on December 8, in the sensor of Lowe *et al.*, it is the fringe planes within the support medium that are curved. For example, at column 4, lines 37-38, Lowe *et al.* state that “[t]he fringe planes, which may be flat or curved...” As is known in the art, a support medium having curved fringes is not the same as a hologram formed as a non-planar mirror that “is concave, convex, capable of effecting retroreflection, recoded using one or more reflective beads, or a prism,” as in the claimed invention.

The mere fact that the purported prior art could have been modified or applied in some manner to yield an applicant’s invention does not make the modification or application obvious unless “there was an apparent reason to combine the known elements in the fashion claimed” by the applicant. *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_\_ (2007). Furthermore, an applicant’s invention is not “proved obvious merely by demonstrating that each of its elements was, independently, known in the (purported) prior art.” *Id.*

A skilled artisan would not have had any reason to modify the sensor of Lowe *et al.* to form the hologram as a non-planar mirror that is concave, convex, capable of effecting retroreflection, recoded using one or more reflective beads, or a prism. Such a non-planar mirror, as in the claimed invention, is quite different than the hologram of Lowe *et al.* Without the benefit of the hindsight gleaned from the applicants’ own disclosure, a skilled artisan would not have been motivated to use a hologram formed as a non-planar mirror as in the claimed invention. Hindsight reconstruction of the prior art cannot support a §103 rejection, as was specifically recognized by the CCPA in *In re Spinnoble*, 56CCPA 823, 160 USPQ 237, 243 (1969).

Thus, the combination of cited references fails to teach or suggest a hologram formed as a non-planar mirror that is concave, convex, capable of effecting retroreflection, recoded using one or more reflective beads, or a prism. These are all special cases of non-planar, and none is simply curved. Also, a skilled artisan would not have had a reason to modify the combination of Lowe *et al.* and Stephens *et al.* to include a hologram formed as such a non-planar mirror.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a) of claims 1, 2, 4-6, 14, and 15.

Claims 16-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Lowe *et al.* in view of Stephens *et al.* as applied to claims 1, 5, 14 and 15 above, and further in view of Yin *et al.* (U.S. Patent No. 5,499,117). The applicants respectfully traverse this ground for rejection because the cited references, taken either alone or in combination, do not teach or suggest the claimed invention.

The deficiencies of the combination of Lowe *et al.* and Stephens *et al.*, as those references relate to the current invention, have been discussed above. Yin *et al.* do not cure, or even address, these deficiencies. Specifically, the combination of cited references fails to teach or suggest a hologram formed as a non-planar mirror that is concave, convex, capable of effecting retroreflection, recoded using one or more reflective beads, or a prism.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a) of claims 16-19.

Claims 3 and 7-13 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Lowe *et al.* in view of Stephens *et al.*, as applied to claims 1 and 5 above, and further in view of Mizutani *et al.* (U.S. Patent no. 6,483,611). The applicants respectfully traverse this ground for rejection because the cited references, taken either alone or in combination, do not teach or suggest the claimed invention.

The deficiencies of the combination of Lowe *et al.* and Stephens *et al.*, as those references related to the current invention, have been discussed above. Mizutani *et al.* do not cure, or even address, these deficiencies. Specifically, the combination of cited references fails to teach or suggest a hologram formed as a non-planar mirror that is concave, convex, capable of effecting retroreflection, recoded using one or more reflective beads, or a prism.


Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a) of claims 3 and 7-13.

In view of the foregoing remarks and the amendment above, the applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

The applicants also invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

A handwritten signature in black ink, reading "David Saliwanchik". The signature is fluid and cursive, with a long horizontal stroke at the end.

David R. Saliwanchik

Patent Attorney

Registration No. 31,794

Phone: 352-375-8100

Fax No.: 352-372-5800

Address: P.O. Box 142950

Gainesville, FL 32614-2950

DRS/la